

MINUTES

MONTANA SENATE 57th LEGISLATURE - REGULAR SESSION COMMITTEE ON HIGHWAYS AND TRANSPORTATION

Call to Order: By **CHAIRMAN ARNIE MOHL**, on March 8, 2001 at 3:05 P.M., in Room 405 Capitol.

ROLL CALL

Members Present:

Sen. Arnie Mohl, Chairman (R)
Sen. Ric Holden, Vice Chairman (R)
Sen. Dale Berry (R)
Sen. Vicki Cocchiarella (D)
Sen. Bob DePratu (R)
Sen. Dan Harrington (D)
Sen. Sam Kitzenberg (R)
Sen. Jerry O'Neil (R)
Sen. Gerald Pease (D)
Sen. Glenn Roush (D)

Members Excused: None.

Members Absent: None.

Staff Present: Connie Erickson, Legislative Branch
Marion Mood, Committee Secretary

Please Note: These are summary minutes. Testimony and discussion are paraphrased and condensed.

Committee Business Summary:

Hearing(s) & Date(s) Posted: HB 524, 3/2/2001;
HB 392, 2/22/2001;
HB 363, 2/22/2001;
HB 430, 2/22/2000

Executive Action: HB 430; HB 524; HB 392

HEARING ON HB 524

Sponsor: REP. JIM KEANE, HD 36, BUTTE

Proponents: Bob Gilbert, Montana Tow Truck Assn., MACO,
Rosebud County,
Don Cerouski, Montana Tow Truck Assn.
Dennis Frownfelter, Montana Tow Truck Assn.
Terry Murphy, Director, Junk Vehicles, Lake County

Opponents: None

Opening Statement by Sponsor:

REP. JIM KEANE, HD 36, BUTTE, opened by saying that HB 524 deals with junk vehicles which are those sitting in a wrecking yard and need to be disposed of, and abandoned vehicles which are those left along highways, needing to be removed. HB 524 increases the existing junk vehicle fee by 15 cents, from 50 cents to 65 cents. This fee will be tied to vehicle registration, and the 15 cents must be used for the exclusive purpose of hired removal of abandoned vehicles.

Proponents' Testimony:

Bob Gilbert, Montana Tow Truck Association, MACO, and Rosebud County, stressed that abandoned vehicles have long been a problem in that law enforcement requires that they be removed but in most cases, there is nobody around to pay the tow truck operator. Compounding the problem is the fact that the vehicles are often sitting along narrow roads, or on the shoulder, making this a safety issue as well. Current law requires the vehicle to be taken to the county yard where the sheriff pays the tower, and it becomes property of the county, but not all counties can afford that. He stated that tow truck companies have ended up holding the bag. He referred to legislation passed during the previous legislative session which appropriated a little over \$200,000 to repay these private towers, and said about \$125,000 had been spent for reimbursement, basing the fee on \$70 per towed vehicle which allows them to break even. This additional fee of 15 cents will only be added to registration cost, not to new titles or title transfers, and it should raise about \$128,000 per year which would go towards reimbursing these towers. He remarked that they do not have much recourse in recovering their expenses because getting the title to such a vehicle through a sheriff's sale was a long, drawn-out process. Moreover, if he could not obtain the title, he had to "junk" the vehicle by first draining and containerizing all fluids, incurring additional expenses of

up to \$200. He welcomed this bill because it compensated the businessman for a valuable, and much needed, service.

Don Cerouski, Montana Tow Truck Association, stood in support of this bill because it would take some of the financial burden off the smaller towers in the state, and felt the impact to the people of Montana would be minimal because it raised the current fee by only 15 cents.

Dennis Frownfelter, Mountain Towing, Whitefish, stated that in the two years since he operated his own business, he has had to pick up the tab for 28 such vehicles. He lauded the bill for raising funds that would help defray that cost.

Terry Murphy, Director, Junk Vehicles, Lake County, rose in support of HB 524, saying it was time these businesses were paid for their services.

Questions from Committee Members and Responses: None.

Closing by Sponsor:

REP. JIM KEANE closed on HB 524.

HEARING ON HB 392

Sponsor: **REP. GAY ANN MASOLO, HD 40, TOWNSEND**

Proponents: **Steve Jenkins, LTAP**
Alec Hanson, League of Cities and Towns
Sam Gianfrancisco, Field Engineer, LTAP
Ray Barnicoat, MACO Risk Management
Eric Griffin, Public Works, Lewis & Clark County
Joe Mazurek, City of Great Falls
Dave Stahly, Stahly Engineering
Gloria Paladichuk, City of Glendive,
Richmond Econ. Development
Don Cerouski,

Opponents: **None**

Opening Statement by Sponsor:

REP. GAY ANN MASOLO, HD 40, TOWNSEND, stated that HB 392 increases the amount of the gasoline and vehicle fuel tax proceeds to the Local Technical Assistance Program, enabling them

to match a federal grant which would increase their training budget. This program trains and gives technical assistance to counties who do not have the personnel for this.

Proponents' Testimony:

Steve Jenkins, Director, LTAP, MSU, told the committee that this program has been in existence for 17 years, with Montana being one of the first states to implement it. Currently, there is an LTAP program in each of 50 states, and it has been touted as the most successful program to come out of the transportation department. He stated that 50% of the funding is federal money which the state matches. Training and technical assistance is extended to local and tribal governments as well as to the highway department. The federal portion has increased from \$100,000 to \$145,000, and the state needs additional monies to match this and expand the training program. He pointed to **EXHIBIT (his53a01)** which outlines the services LTAP provides.

Alec Hanson, League of Cities and Towns, rose in support of HB 392, saying this program was a good investment, and that the \$29,000 contribution from the municipal gas tax funds will go a long way in funding and improving this program.

Sam Gianfrancisco, Field Engineer, LTAP, told how, in his 17 years as road supervisor for Gallatin county, he has seen first-hand the valuable contribution this program has made to counties and cities as well as to the Department of Transportation. He repeated that it offers training, onsite inspections and technical assistance, all of which would benefit from increased funding through passage of B 392.

Ray Barnicoat, MACO Risk Management, stated he had been on the LRAP Advisory Board for the past 15 years. He lamented the litigious nature of today's motorists, who try and sue the county for accidents they themselves might have caused. In defending the counties in these lawsuits, MACO has to prove to the court that their people are properly trained and the roads well-designed and safe. He ascertained that the best way to do this was to be able to show documentation that LTAP has trained the construction and road crews.

Eric Griffin, Director, Public Works, Lewis & Clark County, informed the committee that the LTAP program was a valuable tool which helped him in providing a safer and more effective road system to the people in Lewis & Clark County.

Joe Mazurek, City of Great Falls and on behalf of Jim Reardon, its Transportation Director, reiterated why LTAP was such a good

program for local governments, including training for flagging, construction signing and other risk management issues as well as road designing and maintenance. He said it is apparent that cities and counties recognize the importance of the program because they are willing to give up a greater portion of their share of the gasoline tax to fund it, which would enable them to match the federal grant and improve the program itself. He assured the committee that local government authorities serve on LTAP's board and have a voice in what it does.

Dave Stahly, Stahly Engineering, agreed with previous testimony and repeated that HB 392 was not asking for more money, just for redistribution of county and city funds.

Gloria Paledichuk, City of Glendive, told the committee that Richmond county viewed the LTAP program as being extremely successful, and it depended on it to keep them aware of industry changes.

Don Cerouski, self, proclaimed LTAP to be a very useful safety/security tool in his tow truck business.

Informational Testimony:

Mike Barrett, poet, stated that he had served on a town council, and had written numerous letters to government and its agencies, and handed out **EXHIBIT (his53a02)**, an assortment of handwritten notes and observations. He went on to talk about a number of things unrelated to the issue at hand, until **CHAIRMAN ARNIE MOHL** kindly reminded him that the committee had a lot of other business to take care of, at which point he retreated to his seat.

Questions from Committee Members and Responses: None

Closing by Sponsor:

REP. MASOLO closed on HB 392.

HEARING ON HB 363

Sponsor: REP. DAVID WANZENRIED, HD 68, MISSOULA

Proponents: Brenda Nordlund, Department of Justice, DMV
Barry Stang, MMCA

Opponents: None

Opening Statement by Sponsor:

REP. DAVID WANZENRIED, HD 68, MISSOULA, opened by saying that HB 363 deals with motor carrier public safety, reducing the risk to the traveling public. He pointed out that parts of his bill needed to be passed in order to ensure continued federal funding for highway construction and highway safety projects. He ascertained that HB 363 did exempt agricultural vehicles as defined in statute from its requirements. **REP. WANZENRIED** went on to say that one of the issues HB 363 dealt with was that of driving under the influence as it pertained to commercial vehicles, and pointed out that the standard for the BAC test is much higher for drivers of commercial vehicles, namely .04 versus .10 for passenger cars. Among the many requirements in the bill are reasons under which commercial drivers may have their licenses suspended (starting on page 14 of the bill), and it establishes a clear definition of what a serious traffic violation is. He added that this bill required that all carriers meet these standards, and assured the committee that industry is already abiding by or exceeding these standards.

Proponents' Testimony:

Brenda Nordlund, Department of Justice, explained that the department is responsible for the licensing of both base drivers and commercial drivers, and the highway safety program which is administered by the Highway Patrol Division. She went on to say that this bill was intended to bring Montana law into conformance with federal law in the area of driver licensing and motor carrier safety, and she offered **EXHIBIT (his53a03)** which she felt was a synopsis of this bill.

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She went through many of the areas the bill addresses, isolating the statute used to issue probationary drivers licenses to individuals whose drivers license has been suspended or revoked. She made it clear that under federal law, a commercial driver may not retain their commercial driving privileges if their base driving privileges have been suspended, the term "base drivers license" referring to a non-commercial license. Heretofore, this has not been the practice in Montana, and she stressed the need to conform to federal standards so we do not fall into non-compliance. Another required change is how the department initially issues and renews drivers licenses. Federal law requires that the DOJ check the national driver register, and the commercial driver license information system, every time a person comes to them to have a license issued or renewed. If it reveals that said persons's base or commercial license was suspended or revoked in another state, it will affect their ability to obtain a license in this state. Lastly, she repeated the sponsor's

explanation regarding the blood alcohol content level (BAC) which cannot be more than .04 for the driver of a commercial vehicle, and .10 for a non-commercial vehicle. She stressed that if a driver violates any of the requirements set forth in the bill, it will have consequences with regards to his commercial drivers license. She told the committee that the federal audit had revealed some compliance issues which translates into a withholding of federal highway funding. The first year penalty is 5%, and for the second year, it is 10%. Because this loss of funding could amount to \$13 million in the first year, she implored the committee to understand how important passage of this bill was.

Barry Stang, MMCA, stood in support of HB 363 and presented **EXHIBIT(his53a04)**, his written testimony. He also welcomed the extensive drivers license background checks as a screening tool for new applicants.

Questions from Committee Members and Responses:

SEN. DAN HARRINGTON asked if the commercial drivers license would be affected if a driver was picked up with a BAC of more than .04 with his base license. **REP. WANZENRIED** replied that it would not be a violation if he was driving his own car, only if he was driving the commercial vehicle.

SEN. DALE BERRY wanted confirmation that all HB 363 did was bring Montana into compliance with federal law, and **REP. WANZENRIED** agreed with that assessment, adding that most carriers already abide by these rules because of safety concerns and insurance requirements.

CHAIRMAN ARNIE MOHL asked why the \$30,000 shown in the fiscal note was taken out of the general fund. **REP. WANZENRIED** deferred the question to **Brenda Nordlund** who explained that the requested money was for the additional computer processing with regards to the nationwide computer checks set forth in the bill. **CHAIRMAN MOHL** then asked why the money was not taken out of the highway fund, and wondered who received the money from fines. **Brenda Nordlund** admitted she did not know, except that they did not go to the Motor Vehicle Division or the DOJ. **CHAIRMAN MOHL** contended that highway programs would be affected if this money was taken out of that fund. **REP. WANZENRIED** assured him that he would get that information, and stated that the bill does not allocate those funds. **CHAIRMAN MOHL** repeated that it could kill the bill if, in fact, the money came from the general fund. **SEN. HARRINGTON** felt that monies from fines flow into the general fund and asked for clarification of that, too.

Closing by Sponsor:

REP. WANZENRIED closed on HB 363.

HEARING ON HB 430

Sponsor: REP. GILDA CLANCY, HD 51, HELENA

Proponents: Bob Gilbert, Montana Aviation Trade Assn.
Wade Cebulski, Wade Cebulski Trucking
Jim Steffeck, self
Bill Burkland, Montana Pilots' Assn., self
Jack Gillespie, Montana Pilots' Assn.,
Jean Devivo, Dillon Flying Service
Bruce Burris, self
Doug Monger, self

Opponents: None

Opening Statement by Sponsor:

REP. GILDA CLANCY, HD 51, HELENA, opened by saying that HB 430 was requested by a pilot constituent of hers, and was supported by the MPA and the MATA. A similar program was implemented in Idaho and was very successful. She explained that the bill would provide a courtesy car system at rural airports where there was no rental car or taxi service. The funding will come from the Aeronautics Division, special revenue fund, which is derived from an aviation fuel tax paid by the pilots. HB 430 directs the Aeronautic Division of the Department of Transportation to provide funding to purchase used vehicles for interested communities meeting the criteria set forth in the bill. She referred to page 1, line 29 of the bill and stated that she had asked **Connie Erickson** to draft an amendment, inserting "or taxi service" in addition to the rental car service.

Proponents' Testimony:

Bob Gilbert, MT Aviation Trade Assn., and the MT Experimental Aircraft Assn., stood in support of HB 430, saying it was kind of a "hinterlands" bill. He recounted his own experience, having been a pilot for many years and encountering small general airports, many of which are a few miles from the town, without any means of ground transportation. He assured the committee that no general fund money was being used, and that it was a good cause.

Wade Cebulski, Wade Cebulski Trucking, Seeley Lake, told the committee how much he appreciated Idaho having this program when he was returning from Arizona last winter and had to land in Grangeville at below zero temperatures. Because of the weather, he could not go on to Missoula and had to spend the night, and being able to have a courtesy car to get to town was very welcome.

Jim Steffeck, voiced support for HB 430 as a pilot of more than 30 years, often struggling with the lack of transportation into the small towns, and asked for support of this bill.

Bill Burkland, MPA, self, stated he flies for his job as a civil engineer as well as for recreation. He joked about the term "\$100 lunch", and said that many Montana pilots fly to Idaho to eat lunch and then home again, because they know they will have transportation available once they get there. He remarked that the opportunity was there for our state to cash in on this recreational activity by implementing this program, and advocated it as a way to help the smallest of Montana's communities. He pointed out that Montana has 117 public use airports, and this bill would encourage business and recreational flights to smaller airports and benefit businesses the 100 or so small towns.

Jack Gillespie, MT Pilots' Assn., agreed with previous testimony and said this program would be very helpful. He explained that Montana's weather can change abruptly, and he has had to land in places he had not planned on.

Jean Devivo, Dillon Flying Service, stated she sees many pilots flying in for business or recreation, needing rides into town, and she knew they came to Dillon because she provides a courtesy car.

Bruce Burris, pilot, self, rose in support of HB 430, citing the vast expanse of the state and the long distances between airports which might necessitate unplanned landings.

Doug Monger, self, stated that he has used the program when on business in Sandpoint, Idaho and liked it so well that he and his family went back for summer as well as winter recreation.

Mike Ferguson, Aeronautics Division, MDT, said he was available for questions.

Questions from Committee Members and Responses:

SEN. GLENN ROUSH referred to item (1) in the fiscal note which states that the Aeronautics Division will provide \$2,000 each,

for each fiscal year, to two airports for the purchase of a vehicle. He wondered how the determination would be made which two airports would receive the grants. **Mike Ferguson** replied that they had not made that determination yet; they were still in the process of reviewing applications. Among the deciding factors would be which community needed it the most, and also how much money they wanted. He intimated the monies could stretch further if the cars could be bought for \$1,000.

SEN. JERRY O'NEIL asked whether drivers would be provided with these cars. **Mr. Ferguson** denied that, adding that the insurance requirements are spelled out in the bill. **SEN. O'NEIL** then asked who would be liable if the pilot had a three-martini lunch and wrecked the car. **Mr. Ferguson** affirmed that there was a clause in the bill saying the state would not be liable and pointed to some of the changes that were made during the hearing in the House. But, he added, the pilot would be in a lot more trouble with the FAA if he did have a martini than with law enforcement on the ground.

Closing by Sponsor:

REP. CLANCY closed on HB 430.

EXECUTIVE ACTION ON HB 430

Motion: **SEN. DEPRATU** moved that **HB 430 BE CONCURRED IN.**

Substitute Motion: **SEN. HARRINGTON** made a substitute motion that **AMENDMENT TO HB 430 BE ADOPTED.**

Connie Erickson interjected that the amendment had not been drafted yet, but clarified that it would add, on page 1, line 29, following "rental cars" the word "or taxicabs".

Vote: Substitute motion that **AMENDMENT TO HB 430 BE ADOPTED** carried 10-0.

Motion: **SEN. DEPRATU** moved that **HB 430 BE CONCURRED IN AS AMENDED.**

Discussion:

SEN. O'NEIL stated that in his estimation, Montana was limiting the number of taxicabs and rental cars available at airports, and he felt it was not proper for him to provide tax money to institute such a service, especially if a private service could be established. **CHAIRMAN MOHL** questioned the term "tax money"

since it was not an expense to the taxpayer, but a tax on aviation fuel at the retail level.

{Tape : 2; Side : A; Approx. Time Counter : 0}

Vote: Motion carried 9-1 with O'Neil voting no, and SEN. VICKI COCCHIARELLA voting aye by proxy.

SEN. GLENN ROUSH agreed to carry HB 430 on the Senate floor.

Amendment #HB043001.ace, **EXHIBIT(his53a05)**, was turned in to the secretary on Mar. 9, 2001.

EXECUTIVE ACTION ON HB 524

Motion: SEN. HARRINGTON moved that HB 524 BE CONCURRED IN.

Discussion:

SEN. BOB DEPRATU wanted to know what the implementation date would be because there had been a consensus that license related fees should not be changed in the middle of the year so some people would not be at a disadvantage because of the 12 monthly due dates. He felt that maybe this should not even be addressed because it was only pennies the bill was asking for. **CHAIRMAN MOHL** was concerned that the legislators had been working hard to keep the price of licensing down, and this would start adding to it again. **SEN. ROUSH** asked if the effective date could be moved to the end of the year. **Bob Gilbert** said his organization had no objections to making the anniversary date the first of the year, if that would make it blend in better. **Connie Erickson** stated there was no effective date in the bill as drafted, that it was added with the appropriation to tie it to that. She was not sure if it would have an impact on the appropriation if it was moved. **SEN. DEPRATU** remarked that if it was a large dollar amount, they would hear from the public. This was only 15 cents and he wanted to leave it the way it was written. **CHAIRMAN MOHL** cautioned everyone about adding fees back into the licensing charges, but said he was in favor of this bill.

Vote: Motion carried unanimously, with SEN. COCCHIARELLA voting by proxy.

SEN. HARRINGTON agreed to carry HB 524 on the Senate floor.

EXECUTIVE ACTION ON HB 392

Motion/Vote: SEN. ROUSH moved that HB 392 BE CONCURRED IN. Motion carried unanimously, with SEN. COCCHIARELLA voting by proxy.

ADJOURNMENT

Adjournment: 4:35 P.M.

SEN. ARNIE MOHL, Chairman

MARION MOOD, Secretary

AM/MM

EXHIBIT (his53aad)